

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Bayer et al.

Examiner: Pamela M. Bays

Application No.: 10/562,095

Art Group No.: 4118

Filed: 21 December 2005

Date: 26 March 2009

Title: IMPLANTABLE STIMULATION ELECTRODE WITH A COATING FOR  
INCREASING TISSUE COMPATIBILITY

**TERMINAL DISCLAIMER TO OBVIATE  
A DOUBLE PATENTING REJECTION (37 C.F.R. § 1.321(d))**

**Identification of Person(s) Making This Disclaimer**

I, John J. Cunniff, represent that I am the agent of record.

**EXTENT OF DISCLAIMANT'S INTEREST**

The extent of the interest in this invention that the disclaimant owns is in the whole of this invention.

**DISCLAIMER  
(Provisional Obviousness-Type Double Patenting Rejection Over Pending Applications)**

Petitioner hereby disclaims, except as provided below, the terminal part of any patent granted on the instant application, which would extend beyond the expiration date of any patent granted on Application No. 10/561,774, filed on December 21, 2005, as shortened by any terminal disclaimer. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the above-listed application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, disclaimant does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. Sections 154 to 156 and 173 of any patent granted on the application forming the basis of the double patenting rejection, namely, any patent granted on Application No. 10/561,774, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. Section 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

**DISCLAIMER FEE (37 C.F.R. § 1.20(d))**

Large entity--fee \$140.00.

**FEE PAYMENT**

Authorization is hereby made to charge the amount of \$140.00 to Deposit Account No. 15-0450.

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

Date: March 26, 2009

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Signature of Practitioner

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